

Message Text

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70

ACTION PM-03

INFO OCT-01 EA-06 ISO-00 NSC-05 SP-02 SS-20 RSC-01 CIAE-00

INR-05 NSAE-00 L-01 PA-01 PRS-01 DRC-01 /047 W

----- 116599

R 120500Z OCT 74

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 5217

INFO COMUSJAPAN FUCHU JA

CINCPAC HONOLULU HI

CG 5TH AF FUCHU JA

SECDEF WASHDC

CSAF WASHDC

AMCONSUL NAHA

C O N F I D E N T I A L TOKYO 13262

FOLLOWING SENT COMUSJAPAN FUCHU REPEATED FOR YOUR ACTION/INFO

QUOTE

C O N F I D E N T I A L TOKYO 13262

E.O. 11652 GDS

TAGS: MARR, JA

SUBJ: IE SHIMA SHOOTING INCIDENT

REF: TOKYO 9912

SUMMARY: CRIMINAL JURISDICTION SUBCOMMITTEE HAS REACHED
IMPASSE ON IE SHIMA SHOOTING INCIDENT, GOJ HAS ASKED THAT USG
WAIVE JURISDICTION. REQUEST INSTRUCTIONS. END SUMMARY

1. AFTER SEVEN MEETINGS, THE TWO SIDES IN THE CRIMINAL
JURISDICTION SUBCOMMITTEE HAVE REACHED AN IMPASSE ON THE
IE SHIMA SHOOTING INCIDENT. THERE IS GENERAL AGREEMENT ON THE
FACTS SURROUNDING THE CASE BUT BASIC DISAGREEMENT ON THEIR
INTERPRETATION. THE GOJ SIDE BELEIVES THAT ACTS OF LOCKE AND
JOHNSON WERE NOT REMOTELY RELATED TO THEIR DUTY AND CONSTITUTED
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PRIVATE ACTS. THE US SIDE CONSIDERS THAT NO NEW EVIDENCE HAS

BEEN PRESENTED WHICH WOULD JUSTIFY A REVERSAL OF THE US DECISION TO ISSUE A DUTY CERTIFICATE. BOTH SIDES IN THE SUBCOMMITTEE AGREE THAT AN IMPASSE HAS BEEN REACHED AND THE TWO CHAIRMAN ARE PREPARED TO WORK TOGETHER ON PREPARING A REPORT TO THE JOINT COMMITTEE. BEFORE REFERRING MATTER BACK TO JOINT COMMITTEE, UNDERSTANDING IS NEEDED WITH GOJ ON HOW WE SHOULD PROCEED FROM HERE.

2. U.S. CHAIRMAN OF SUBCOMMITTEE HAS BEEN AUTHORIZED TO APPROACH HIS SUBCOMMITTEE COUNTERPART WITH THE PROPOSAL THAT THE JAPANESE SIDE AGREE TO WAIVE JURISDICTION TO U.S. WITHOUT REFERENCE TO QUESTION OF PRIMARY JURISDICTION. AMER AFFAIRS DIRGEN YAMAZAKI AND SECURITY DIV CHIEF YAMASHITA HAVE STATED EMPHATICALLY TO DCM THAT GOJ CAN QTE NEVER QTE AGREE TO RELINQUISH ITS CLAIM TO PRIMARY JURISDICTION IN THIS CASE. JAPANESE RESPONSE TO ABOVE USFJ APPROACH SEEMS CERTAIN TO BE NEGATIVE.

3. EMBASSY EXPRESSED INFORMAL VIEW TO FONOFF THAT ON BASIS OF CASE PRESENTED BY GOJ IN SUBCOMMITTEE WE BELIEVE IT IS UNLIKELY THAT USAF WILL WITHDRAW DUTY CERTIFICATES. FONOFF UNDERSTANDS THIS AND AGREES ON NEED TO WORK OUT MUTUALLY AGREEABLE SCENARIO TO RESOLVE MATTER. YAMAZAKI HAS INFORMED DCM THAT GOJ WOULD PREFER TO RESOLVE PROBLEM BEFORE PRESIDENTIAL VISIT BY US VOLUNTARILY WAIVING JURISDICTION WITHOUT ADDRESSING QUESTION OF PRIMARY JURISDICTION, I.E. , ALONG LINES OF GIRARD PRECEDENT. DCM REMINDED YAMAZAKI OF THE EXTRAORDINARY DIFFICULTY RELATED TO GIRARD CASE AND EXPRESSED PERSONAL OPINION THAT IT WOULD BE EXTREMELY DIFFICULT FOR USG TO AGREE TO SUCH SOLUTION. YAMAZAKI, HOWEVER, URGED THAT USG GIVE PROMPT AND SERIOUS CONSIDERATION TO HIS PROPOSAL, AND DCM AGREED TO REFER MATTER TO WASHINGTON FOR INSTRUCTIONS.

4. IF USG INTENDS TO RETAIN JURISDICTION, THE MAJOR REMAINING POLITICAL PROBLEM IS ONE OF TIMING. ANNOUNCEMENT OF A USG DECISION TO RETAIN WILL OBVIOUSLY CREATE AN ADVERSE REACTION WHICH WE BELIEVE SHOULD BE AVOIDED IF AT ALL POSSIBLE IN THE BRIEF PERIOD BEFORE THE PRESIDENTIAL VISIT. THUS, IF WASHINGTON CANNOT APPROVE GOJ REQUEST OUTLINED PARA 3 ABOVE, WE PROPOSE THAT EMBASSY IN COORDINATION WITH COMUSJ WORK OUT WITH FONOFF AN AGREED SCENARIO
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FOR KEEPING THE ISSUE WITHIN THE JOINT COMMITTEE STRUCTURE UNTIL AFTER THE PRESIDENTIAL VISIT. WE FORESEE NO TROUBLE IN DOING SO.

5. REQUEST INSTRUCTIONS RE PARAGRAPHS 2 AND 3 ABOVE.
HODGSON

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NNN

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